



TECHNICAL BULLETIN No. 003

TITLE **Limited Competition Procurement**
REVISION **Number 1**

I. Authority

A. Applicable Statute

- A.R.S. § 41-2536. Sole source procurement
- A.R.S. § 41-2537 Emergency procurements

B. Applicable Administrative Code

- A.A.C. R2-7-201 State Procurement Administrator: Duties and Qualifications
- A.A.C. R2-7-202 Delegation of Procurement Authority to State Governmental Units
- A.A.C. R2-7-E301 Sole Source Procurements
- A.A.C. R2-7-E302 Emergency Procurements
- A.A.C. R7-E303 Competition Impracticable Procurements

C. Applicable Technical Bulletins

- Technical Bulletin 01 –Delegation of Procurement Authority

II. Revision Note

This Technical Bulletin revises and supersedes Policy Number 4 Impracticable to Compete (issued November, 2000), Policy Number 005 Sole Source Procurement (issued June, 2001), and Policy Number 006 Emergency Procurement (issued June, 2001).

III. Specific Authority

R2-7-201 State Procurement Administrator: Duties and Qualifications lists among the duties of the State Procurement Administrator establishing procurement policy and procedures and delegating procurement authority.

The State Procurement Administrator may grant authority to approve and conduct limited competitions to agencies based on criteria set forth in R-7-202 and in accordance with Technical Bulletin Number 1, Procurement Delegation of Authority.



IV. Definitions

Where set forth in normal font, the following definitions are directly from the Arizona Procurement Code. Expanded or additional definitions are in *Italics* from sources noted.

- A. **Agency** means an Arizona State Governmental Unit with either limited or unlimited delegated procurement authority granted by the State Procurement Administrator and the person(s) with relevant procurement authority within the State Governmental Unit.
- B. **Agency Chief Procurement Officer** means the person within a purchasing agency, as identified by the state governmental agency head, who is acting under specific, written authority from the State Procurement Administrator in accordance with R2-7-202 or any person delegated that authority, in writing, under R2-7-203. The term does not include any other procurement officer or person within a State Governmental Unit who does not have this written delegation of authority.
- C. **Aggregate dollar amount** means purchase price, including taxes and delivery charges, for the term of the contract and accounting for all allowable extensions and options.
- D. **Competition-impracticable procurement** means a procurement requirement exists which makes compliance with A.R.S. § 41-2533 (Invitation for Bids), 41-2534 (Request for Proposals), 41-2538 (Competitive Selection Process for Clergy, Physicians, Dentists, Legal Counsel, or Certified Public Accountants), or 41-2578 (Specified Professional and Construction Services) impracticable, unnecessary, or contrary to the public interest, but which is not an emergency under R2-7-E302.
- E. **Emergency** means any condition creating an immediate and serious need for materials, services, or construction in which the state's best interests are not met through the use of other source-selection methods. The condition must seriously threaten the functioning of state government, the preservation or protection of property, or the health or safety of a person.
- F. **Emergency procurement** means the procurement activities conducted to establish a contract under emergency conditions.
- G. **Limited-competition procurement** means any procurement method utilizing less than full competition, including competition impracticable, sole-source and emergency procurements.
- H. **Procurement** means buying, purchasing, renting, leasing or otherwise acquiring any materials, services, construction or construction services. Includes all functions that pertain to obtaining any material, services, construction or construction services, including description of requirements,



selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

I. **Sole-source procurement** means a material or service procured without competition when:

- There is only a single source for the material or service; or
- No reasonable alternative source exists.

The National Institute of Government Purchasers (NIGP) Dictionary of Purchasing Terms, Fifth Edition: NIGP 1996 offers an expanded definition of sole-source procurement as follows: *1: only one vendor possesses the unique and singularly available capability to meet the requirement of the solicitation, such as technical qualifications, ability to deliver at a particular time, or services from a public utility. 2: a situation where a particular supplier or person is identified as the only qualified source available to the requisitioning authority.*

In addition, the NIGP Dictionary defines single-source procurement as *a contract for the purchase of goods and services entered into after soliciting and negotiating only with one source, usually because of the technology required or uniqueness of the service provided.*

V. **Statement of Policy**

It is the policy of the State of Arizona that:

- A. Limited-competition procurements shall be conducted in compliance with the Arizona Procurement Code, Chapter 23 A.R.S. 41-2501 et. seq. and this Technical Bulletin.
- B. Limited-competition procurement situations may arise when:
 1. There is an emergency situation (emergency procurement);
 2. Only one source is capable of supplying the product or service (sole-source);
 3. Although a number of sources may exist which are capable of supplying the product or service, it is determined to be in the best interest of the State to direct the purchase to a particular source or to solicit from a limited and specified list of prospective suppliers (competition impracticable).
- C. Limited-competition procurements shall be rare because they are conducted only when justified to address situations in which competition is: impracticable or not in the public interest; there is only a single source or no reasonable alternative is available; or a serious and immediate need has unforeseeably arisen.



- D. All limited-competition procurements shall be made with such competition as is practicable under the circumstances. At a minimum, the procurement officer shall execute a negotiation process, if practicable, with the prospective supplier(s) identified for the limited-competition procurement.
- E. Agencies with limited procurement delegation shall seek approval for limited competition procurements from the State Procurement Administrator before proceeding with any limited-competition procurement. The request shall be submitted on the SPIRIT application. If access to SPIRIT is not available or feasible, the agency shall use the "Limited Competition Procurement Authorization Request" form on the SPO website at <http://www.azdoa.gov/spo/documents-forms>.
- F. Upon authorization of a limited competition procurement by the State Procurement Administrator, an agency with limited procurement delegation may negotiate and authorize a contract within their level of procurement delegation. All limited competition procurements which exceed the agency's level of delegation shall have any resultant contract authorized by the State Procurement Administrator.
- G. Unlimited agency Chief Procurement Officers or their designee shall approve limited-competition procurements before the agency proceeds with such procurements.
- H. Unlimited agencies shall report all limited competition procurements on the "Agency Quarterly Report" form on the SPO website at <http://www.azdoa.gov/spo/documents-forms>.
- I. A determination that the procurement is a limited competition must occur prior to performance under the contract.

Effective

This Technical Bulletin is hereby effective this 6th day of May, 2008, unless otherwise revised or repealed.

Statute, Administrative Rule, and Executive Orders shall prevail in the event of a discrepancy between this policy and applicable Statute, Administrative Rule, or Executive Orders.

Signature

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